90-1207

FILED
JAN 14 1991
JOSEPH F. SPANIOL, JR.
CLERK

No.

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In The

**SUPREME COURT of the UNITED STATES**

October Term, 1990

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Cecil Ray Taylor, Pro Se

Petitioner,

v.

Commissioner of Internal Revenue

Respondent.

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**PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT**

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## BASIC QUESTIONS

1. At what point does the individual's United States Constitutional and other supreme law of the land rights outweigh the United State's Executive Branch's authority to collect taxes?

2. Is it "reasonable" to require a "private citizen who is under duress and acting pro se" to meet "all" the format and content standards of filing their initial tax court petition as long as the initial filing is timely?

3. Is it equitable, reasonable and uniform to tax American Citizen's income using different tax rates?

4. Is the complexity of the United States tax code "necessary and proper?"

5. 28 USC 2403(a) may be applicable and was not earlier certified to Attorney General.

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Tax Court Rule 1
Rule 60 Federal Rules Civil Procedure

26 USC 3800
26 USC 4047
42 USC 1985 & 1986

Commissioner v. McCoy, 484 U.S. 3, 6 (1987)

G&M Leasing Corp. v. US, Utah 1977, 97 S.Ct. 619, 429 US 338, 50 L.Ed.2d 530, on remand 560 F.2d 1011

Taylor v. US, et al, S.Ct. file 85-1123

Taxes-Contract, 1898, 22 Op. Atty. Gen 192

REFERENCE TO COURT OPINIONS AND FILES

Reference is made to paragraph 2 of US

Tax Court No. 24999-88 Order of 24

October 1989 and all other documents on file in US S.Ct. docket file 85-1123. All said documents are incorporated herein by reference - except paragraph 1 of Tax Court order of 24 October 1989 in case 24999-88 as that paragraph belongs to George Kapke, City of Independence, Missouri to appeal and/or Federal Judge Elmo B. Hunter to give full faith and credit pursuant to 28 USC 1737.

# PETITION FOR WRIT OF CERTIORARI

## JURISDICTION

On October 16, 1990 the United States Court of Appeals for the Eighth Circuit denied Cecil Taylor's petition for a rehearing in docket 90-1684. The parties were the same named in this petition. The 8th Circuit Court of Appeals' jurisdiction: 26 USC 7482(a).

Jurisdiction of the United States Supreme Court is invoked pursuant to 28 USC 1254.

## CONSTITUTIONAL PROVISIONS INVOLVED

1. Art. I, Sect. 8, Cl. 1: "... shall be uniform throughout the United States."

2. Art. 1, Sect. 8, Cl. 18: "... Laws which shall be necessary and proper ..."

3. Art, IV, Sect. 1: "Full Faith and Credit shall be given ... to ... Judicial Proceedings ..."

4. Art. VI, Sect. 2: "This Constitution, ... shall be the supreme law of the land; and the Judges...bound thereby, ..."

5. The IV Amendment: "The right of the people to be secure in their ... papers, against ureasonable searches ... shall not be violated."

6. The Vth Amendment states, "nor deprived of ... property, without due process of law."

## STATEMENT OF THE CASE

Cecil Taylor filed a timely petition with the United States Tax Court for Tax Year 1983. The Tax Court and the 8th Circuit Court of Appeals erroneously detached jurisdiction of the Tax Court based upon format of the timely filed petition. Format is correctable by law.

Congress in 26 USC 4047 definitely specifies the scope of unlawful acts of those federal employees involved in tax matters. Cecil Taylor contends that unlawful acts of a federal officer(s) - even in civil matters - should be considered as evidence and given weight by the United States Tax Court pursuant to Rule 1 of the Tax Court.

Both the Tax Court and the 8th Circuit have found it without merit that Cecil Taylor was denied two appeals hearings - 1983 & 1984 tax years. Constitutional due process, 26 USC 4047 and 42 USC 1985 are not lacking in merit.

Cecil Taylor contends that questions 3 and 4 above are questions that should have been addressed in the appeals hearings. Said hearings being denied in violation of 42 USC 1985 - the questions remain unanswered and appropriate for appellate determination.

ARGUMENT FOR ALLOWANCE OF WRIT

I. Question No. 1:

For tax year 1983, on April 13, 1986; Cecil Taylor informed the IRS in writing of the existence of the United States Supreme Court Orders in 85-1123. During the period of April 13, 1986 until the

time of this filing -- the entire Executive Branch - including Presidents Reagan and Bush, United States Attorneys Meese and Thornburg, and Secretary of Treasury James Baker, Tax Court Judges Nims and Whalen, et al, have refused to grant formal full faith and credit to the published orders of the US Supreme Court and/or the inferior federal courts from which 85-1123 was appealled. When tax year 1983 audit was completed by the IRS auditor, a Report of Individual Income Tax Changes was issued, and Cecil Taylor paid the deficiency amount of said report. Cecil Taylor then requested an appeals hearing on the sole remaining issue: that being IRS recognition of US S.Ct. 85-1123 orders to grant an involuntary conversion of Cecil Taylor's rental properties at 1232 S. Spring. On

October 15, 1989 - in writing - Robert Fowler, IRS attorney, acknowledged that this involuntary deduction should have been granted for tax year 1983.

However, the IRS is subject only to the laws that the Tax Court can enforce - (Case Law - Commissioner v. McCoy, 484 U.S. 3, 6 (1987)) grants full "judicial power" to the Executive Branch to violate the United States Constitution without the punishment legislated by US Congress in 26 USC 7047 when conducting IRS tax audits. In Commissioner v. McCoy, according to the IRS implementation, the Judicial Branch has attempted to "legislate" case law that smacks constitutional court jurisdiction legislated by US Congress in 26 USC 3800.

Further, G&M Leasing Corp. v. U.S., Utah 1977, 97 S.Ct. 619, 429 U.S. 338, 50 L.Ed.2d 530, on remand 560 F.2d 1011;

says that the 4th Amendment of the Constitution was intended to elimirate massive intrusion on privacy undertaken in collection of taxes. Cecil Taylor contends the 4th Amendment to the Constitution is more important than Commissioner v. McCoy. What says the Supreme Court to the following: A. Executive Branch refusal to give full faith and credit to S.Ct. 85-1123?

B. At the completion of the 1983 tax year audit on March 11, 1986; an IRS report of individual income tax changes of $853.00 was issued and paid. On April 13, 1986 Cecil Taylor asked IRS to give full faith and credit to S.Ct 85-1123. In July 86, 1986 Cecil Taylor asked for an appeals hearing on the involuntary conversion based upon 85-1123. In violation of 26 USC 4047 and 42 USC 1985 & 1986; the appeals hearing was denied.

However, acting solely on their own need to punish Cecil Taylor - on February 4, 1987 the IRS extorted funds from Cecil Taylor by issuing a report with a balance due of $3504.46. (This deducted the $853 previously paid.) The cost to a US Tax payer to ask the Executive Branch of Government to recognize the orders of the Supreme Court is therefor: $3504.46?

C. It is a stipulated fact that no IRS computer printout to justify tax year 84 audit existed except the one of December 21, 1987. The Tax Court trial transcript of 24999-88, from line 7 p. 13 to line 7 page 14 documents that tax year 1984 was done under duress with no reasonable federal justification.

Is 26 USC now "superior" to the 4th Amendment of the United States Constitution and pursuant to Tax Court

Rule 1, are IRS acts in violation of the United States Constitution admissible as evidence in any federal court?

D. It being undisputed fact that tax year 84 audit was completed prior to 21 December 1987 and therefor without reasonable and stipulated sole justification for said audit, and the only IRS action after December 21, 1987 and prior to the issuance of the notice of deficiency for tax year 1984 being the IRS denial to Cecil Taylor of his appeals hearing in violation of 26 USC 4047 and 42 USC 1985 & 1986: was there ever a legal notice of deficiency issued for tax year 1984 upon which the United States Tax Court jurisdiction could attach? Rule 60 of the FRCP does not allow any case to be vitiated with fraud.

II. Question No. 2:

It is undisputed fact that for tax

year 1983, Cecil Taylor did file a timely document with the United States Tax Court. The question is whether timeliness attaches the jurisdiction of the United States Tax Court. Congress says it does. What says the Supreme Court?

Note: Cecil Taylor being aware of the IRS refusal to recognize the United States Supreme Court concurrently mailed IRS form 872A to the Supreme Court and IRS prior to April 15, 1987. The S.Ct 85-1123 file should contain the copy sent to the Supreme Court. Just another bit of fraud by the Executive Branch.

Question 3:. Article 1, section 8, clause 1 of the United States Constitution requires that Congress tax "uniformly." In Taxes-Contract, 1898, 22 Op. Atty.Gen 192, it was determined that a tax is "uniform" when it is

"uniform upon all subjects of the same kind or class." If all United States citizens are created equal, then anything other than a flat rate tax is not a tax applied uniformly to all United States citizens. (Note: this does not reach Congress' right to "exempt." ) This point is based upon the numerous reports in this country which state that white males make more money than minorities performing the same job. Thus, higher taxes for making more money constitutes reverse discrimination against white males and is therefor not "uniform." Cecil Taylor argues that the flat tax rate should take effect 1 January 1992 to end this "non-uniformity.

Question 4

The experts say the deficit can not be reduced without first simplyfiing the tax codes. Since 1985, Cecil Taylor

has been struggling with the complex tax codes which contains so many discretionary calls for IRS that one can claim they are arbitrary and capricious. Take this case where IRS calls "paint" a capitalized deduction and Cecil Taylor calls paint "maintenance." The difference seems slight until several years of "interest" is discretionarily added. (Note: there is no equity to IRS discretion as the Tax Court must side with IRS against the tax payer. And, short of painting the tax court judge to see if the paint can be cleaned off or last 25 years - a tax payer can not reasonably prove the IRS wrong.) There are published reports of major companies filing tax returns nine (9) feet long. There are also published reports of how American Corporations are forced to invest in foreign jobs rather

than American jobs due to the current tax code. Being in the rental business, when Americans lose jobs - I lose rent. In Cecil Taylor's opinion, any tax that supports a foreign jobs over US jobs during a period when there is a trade deficit as we have now -- constitutes a larger threat to our national security than any foreign military threat. The proof is Japan's success where American business investments have been made more profitable in that country than in US manufacturing. Japan now owns more of America than her Armies were able to capture in an all out war.

What says the Supreme Court as to the "necessary and proper" complexity of the current tax code and its parts which aid and give unreasonable favoritism to foreign economies over American businesses, and create excessive

litigation for the judiciary, and allow the Executive Branch to be above the Judicial Branch by refusing to recognize orders of the US Supreme Court?

CONCLUSION

Based upon this fact set and S.Ct. 85-1123, Cecil Taylor can find no merit to Article III of the United States Constitution. No soldier should have to put their life on the line for a "void" portion of the United States Constitution. If the Judicial Branch is truly as it appears in these two fact sets -- the oath of office for federal employees should be modified to say "except Article III which has no merit."

Cecil Taylor feels the 84 audit was illegal from its conception in the minds of those who would punish a private citizen for asking the Executive Branch

to recognize the Supreme Court. $3504.46 is too much to ask a private citizen to pay as a gratuity to federal employees to compensate them for their hurt egos of someone challenging their illegal acts. Five (5) years of effort wasted is also too much to pay.

Lastly, a federal employee must report fraud to a federal judge. This document does that. Judicial power allows this Court to enforce all laws of the United States as Congress never limited the jurisdiction of the Supreme Court in 26 USC 3800. Congress also gave the Tax Court mandate to abide by the FRCP in its Rule 1. The Tax Court may not enforce the laws of the United States outside its jurisdiction, but it is mandated to review evidence for compliance with the laws of the United States prior to allowing said evidence

to be used within its jurisdiction.

Cecil Taylor lays this unconscionable fact set of Executive Branch crimes at the feet of the Supreme Court for its judicial action.

All relief sought from the 8th Circuit is included here by reference.

Respectfully submitted,

Cecil Ray Taylor, Pro Se

## APPENDIX

### UNITED STATES COURT OF APPEALS
### FOR THE EIGHTH CIRCUIT

No. 90-1684

| | | |
|---|---|---|
| Cecil Ray Taylor, Appellant, | * | |
| v. | * | Appeal from the United |
| Commissioner IR, Appellee. | * | States Tax Court |

Taylor's document entitled "Direct and Collateral Attack on the Orders in the Above Captioned Case" is overruled.

October 5, 1990

### UNITED STATES COURT OF APPEALS
### FOR THE EIGHTH CIRCUIT

No. 90-1684

| | | |
|---|---|---|
| Cecil Ray Taylor, Appellant, | * | |
| v. | * | Appeal from the United |
| Commissioner IR, Appellee. | * | States Tax Court |

Cecil Taylor appeals the decision of the Tax Court upholding the Commissioner's assessment of a 1984 federal income tax deficiency against him, and dismissing for lack of jurisdiction that portion of his

petition disputing the assessment of a 1983 federal income tax deficiency.

We reject Taylor's argument that the Tax Court should have considered the 1983 notice of deficiency. We believe the Tax Court properly determined that it lacked jurisdiction to consider Taylor's challenge to that notice because Taylor failed to file a **proper** petition with the Tax Court within the required 90-day statutory period. See 26 U.S.C. 6213(a); Andrews v. Commissioner, 563 F.2d 365, 366 (8th Cir. 1977) (per curiam).

Taylor does not argue that the Tax Court erred in assessing the 1984 tax deficiency. We lack jurisdiction in this proceeding to consider Taylor's arguments that his constitutional rights were violated by the Commissioner's employees during the audits, and that federal officials ignored a United

States Supreme Court order entered in a separate lawsuit. See Commissioner v. McCoy, 484 U.S. 3, 6 (1987)(per curiam) (appellate court to determine only whether Tax Court committed error; no jurisdiction to grant relief beyond powers of Tax Court). We find no merit in Taylor's argument that the Commissioner denied him an administrative appeal.

Taylor's motions for sanctions and to supplement the record are denied.

Accordingly, we affirm the decision of the Tax Court.

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No. 90-1684

| | | |
|---|---|---|
| Cecil Ray Taylor, Appellant, | * | |
| v. | * | Appeal from the United States Tax Court |
| Commissioner IR, Appellee. | * | |

Petition for rehearing is denied.

October 16, 1990

UNITED STATES TAX COURT

| | | |
|---|---|---|
| CECIL RAY TAYLOR<br>Petitioner, | ) | |
| v. | ) | No. 24999-88 |
| COMMISSIONER OF IR,<br>Respondent. | ) | |

DECISION

Pursuant to the opinion of the Court rendered on January 29, 1990, at the conclusion of the trial of the above-entitled case, and incorporating herein the facts recited in the respondent's computation as the findings of the Court, it is

ORDERED AND DECIDED: That there is a deficiency in income tax due from the petitioner for the taxable year 1984 in the amount of $840.00.

Laurence J. Whalen, Judge.

Entered: Mar-9 1990

UNITED STATES TAX COURT

| | | |
|---|---|---|
| CECIL RAY TAYLOR<br>Petitioner,<br>v.<br>COMMISSIONER OF IR,<br>Respondent. | )<br>)<br>)<br>)<br>) | No. 24999-88 |

MOTION FOR SUMMARY JUDGMENT
IN FAVOR OF PETITIONER
BASED UPON US DISTRICT COURT DOCKETS
AND ORDER OF
UNITED STATES SUPREME COURT IN 85-1123

Comes now petitioner, pursuant to Rule 121, and moves for summary judgment in favor of the petitioner that:

1. The federal cases listed on the attached United States District Court for the Western District of Missouri case dockets exist and are matters of law. ***(Cecil Taylor does **NOT** appeal this paragraph for cause - see Reference to court opinions and files page - ii.)

2. The April 21, 1986 Order of the United States Supreme Court exists and is binding on the United States - a named party.

3. That Cecil R. Taylor was a pro se

participant and a named party in these court actions requiring him to prepare all necessary documents for petitions, discovery, motions, etc. as required by the local rules of each court.

4. That it is a legal use of an office to prepare cases for trial and to do what is necessary to enjoy the rights afforded all citizens by the United States Constitution to have a fair trial.

*** Rubber stamp imprint which reads:

"U.S. TAX COURT, DENIED, OCT 24 1989, (Signed) Laurence J. Whalen Judge"

Certificate of Service

I hereby certify that on this Saturday, January 26, 1991, I mailed postage prepaid, 3 service copies of the foregoing to:

1. Solicitor General,DOJ, Washington, DC 20530.
2. Fred T. Goldberg, Jr., Office of the Commissioner, 1111 Constitution Avenue NW, Washington, DC 20224.
3. President George Bush, The White House, Washington, DC 20500.

Cecil Ray Taylor